

1 repeatedly report that same incident is nonexistent?

2 MS. ZELLNER: Objection to the form of the
3 question.

4 BY MR. FREIMUND:

5 Q Do you understand my question, ma'am?

6 A No.

7 Q Let me try again then. And please, if at any
8 time you don't understand my question, don't hesitate to
9 say so.

10 My question is -- is once a disclosure of
11 sexual abuse has been made to the authorities involving a
12 particular victim and a particular perpetrator, is it
13 your understanding that you have no obligation to report
14 that same abuse when a child repeats it in your presence
15 during a therapy session?

16 MS. ZELLNER: Objection to form. It's
17 compound, confusing, and it assumes facts not in
18 evidence.

19 BY MR. FREIMUND:

20 Q Did you understand the question that time,
21 Ms. Link?

22 A No.

23 Q What is it about it that you're missing? And
24 maybe I can be a little clearer.

25 A Are you talking about if the child had told me

1 on a previous occasion and I had reported it that I would
2 not have to report it every therapy session that a child
3 talked about it? Is that what you're asking?

4 Q Well, we can start with that. And what's your
5 answer with that?

6 A No. I would not have to report every --

7 Q Okay. Let's take another situation.

8 You are aware -- let's use the facts of this
9 case. You are aware that this child had previously
10 disclosed that she had been sexually abused by her father
11 and the authorities were aware of that fact.

12 If the child made a disclosure to you that she
13 had been sexually abused by her father and you know that
14 has already been reported, would you feel an obligation
15 to report it again?

16 A Yes.

17 Q Do you think you're required to do so?

18 A Well, I think I'm required to if I believe
19 there's abuse and there's -- it's not clear whether what
20 the child has told me is the same or different as someone
21 else has reported it.

22 Q Okay. Now, you said you had a vague
23 recollection of talking to law enforcement at some point.

24 Is it your vague recollection that that
25 happened on only one occasion or did it happen on more

1 than one occasion?

2 A I don't recall.

3 Q And you have no memory of when it happened
4 either, I take it.

5 A No, I don't.

6 Q And you have no memory of whether it was a
7 prosecutor, a criminal defense lawyer, a police officer,
8 or what have you.

9 Is that also the state of your memory?

10 A Yes, it is.

11 Q So when you've reviewed these notes that
12 indicate on at least two occasions, if not more, you
13 speak with prosecutors, criminal defense lawyers, and
14 police officers regarding the abuse reported by
15 Kathryn Spencer, you aren't saying that that never
16 happened. You're just saying you don't recall if it
17 happened; is that accurate?

18 A I'm sorry. What was the question again?

19 Q Is it accurate, after you've reviewed all these
20 notes indicating that you did speak with prosecutors, a
21 criminal defense lawyer for Mr. Spencer, and a police
22 officer that your testimony is you don't recall those
23 interactions occurring, but you are not testifying that
24 those interactions never happened?

25 Is that a fair understanding of your testimony?

To the extent the carry over testimony designated by the defense opens the door to matters in plaintiff's motion in limine 13, dkt. 202 at 15, Plaintiff objects and reserves right to supplement highlighting if motion is denied.

See next page

Deposition of Ann Link, Ph.D.

SPENCER VS. PETERS

1 A I'm testifying that I don't recall them.

2 Q Are you testifying that they never happened?

3 A I am testifying that I don't have a
4 recollection of it.

5 Q And would you agree, ma'am, that not having a
6 recollection is not the same thing as saying something
7 never happened? Would you agree with that?

8 A I'm not sure I understand what you're saying.

9 Q Let me try again then.

10 Would you agree that there is a difference
11 between saying I don't remember something happened and
12 saying I know something did not happen?

13 A Yes.

14 Q Would you agree there's a difference between
15 those two statements?

16 A I guess I would agree. Yes.

17 Q And that's what I'm trying to focus on is
18 that -- that difference between those two statements.

19 Would you agree that when you say, I don't
20 recall talking with prosecutors and another criminal
21 defense attorney and police officer, you are not saying
22 that never happened? You're just saying, I don't have a
23 memory of that happening.

24 Would that be a fair understanding of your
25 testimony?

Objection
to page 54
line 19
through
page 56,
line 1
based on
dkt. 202
at 15.
Plaintiff
reserves
right to
supplement
highlighti
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motion is
denied.

Additional
basis for
page 55,
line 5 to
page 56,
line 1:
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1 L A Yes.

2 Q Thank you. Now let's turn to group Exhibit 6
3 from the Plaintiffs' Group Exhibit 6. There's an email
4 there from the plaintiff lawyer in which it says, "Per
5 your request, please find the attached documents."

6 Did you ask the plaintiff lawyer to send you
7 the documents that are attached in Group Exhibit 6? I'm
8 sorry. If you answered, I didn't hear it.

9 A I believe I said I would be interested in
10 seeing it.

11 Q In seeing what? What exactly did you tell the
12 plaintiff lawyer you'd be interested in seeing?

13 A Other information about the case, if there was
14 any.

15 Q And why did you think there might be other
16 information about the case? Is that based on something
17 Ms. Zellner told you or what?

18 A Yes. She's the only person I've talked to
19 about the case.

20 Q Yes. And what is it you asked her for
21 specifically?

22 A I didn't specifically ask her for anything.

23 Q Well, it says, "Per your request, please find
24 the attached documents," and I'm just trying to find out
25 what was your request.

1 A Oh, I see.

2 Q What did you ask for?

3 A Yes.

4 MS. ZELLNER: I'm going to object because it's
5 asked and answered. She's already told you that she said
6 she'd be interested in looking at documents.

7 MR. FREIMUND: I understand that.

8 BY MR. FREIMUND:

9 Q And what I'm asking for is a little bit more
10 precision, if you have it, Ms. Link.

11 Do you recall specifically what you asked or
12 requested to review?

13 A Documents that refer to me. Parts of the
14 documents that mention me in them.

15 Q So you're pretty sure that you only asked to
16 review documents that mention you in them.

17 Is that your memory?

18 A I'm not sure about that.

19 Q Okay. Well, what is it you asked to review
20 then?

21 MS. ZELLNER: Objection. She's asked and
22 answered the question. You're badgering her.

23 MR. FREIMUND: No. She said that she asked for
24 documents that referenced her and then she said no; I
25 don't think I limited it to that, or that was my

1 understanding.

2 BY MR. FREIMUND:

3 Q So what I'm trying to figure out -- to the best
4 of your ability, Ms. Link, what was it you requested to
5 review?

6 MS. ZELLNER: Objection. Asked and answered.

7 BY MR. FREIMUND:

8 Q You may still answer, please.

9 A Well, documents in which my name was
10 mentioned.

11 Q Okay. That's your best memory of what you
12 asked for?

13 A Yeah.

14 Q Okay. Why did you ask for those documents that
15 your name was mentioned in?

16 A Because I wanted to know what kind of
17 information people had said about me.

18 Q Looking at Group Exhibit 6 where -- the second
19 page in these documents that you received per your
20 request that mention your name, you were asked to read or
21 listen to Ms. Zellner read, I should say, portions from a
22 deposition transcript apparently involving James Peters.

23 Do you see those pages 97 and 98 --

24 A Yes.

25 Q -- and 125?

1 A Yes.

2 Q And you said that the portion where Mr. Peters
3 is reporting as is similarly reflected in his -- or
4 somebody's notes that there -- you had told him that
5 Kathryn Spencer had disclosed sexual abuse to you on or
6 around November 1 of 1984.

7 A What line are you on?

8 Q I'm on page 98, line 11. And then I'm also
9 referencing back to those handwritten notes of the
10 interview that are about four pages back from that page.

11 A Yes.

12 Q And both the transcript testimony and those
13 written notes that were apparently taken 25-plus years
14 ago references that you told the prosecutor, Mr. Peters,
15 that Kathryn Spencer had disclosed sexual abuse to you on
16 November 1, 1984.

17 Do you see that?

18 A Is that page 98?

19 Q Yes. And also the handwritten notes that is right to
20 under Spencer-00809. That's the same thing. supplement if motion is

21 Do you see both of those documents? at this point the

22 A Yes.

23 Q All right. And is it your testimony that asked and
24 that -- you never made that statement to Mr. Peters or is and
25 it your testimony you do not recall making that statement hearsay

Objection to testimony
designated by defense
on pages 59 and 60 on
basis of dkt. 202 at
15. Plaintiff reserves
right to
testimony is
cumulative, it has been
asked and
answered, speculative,
and
hearsay

See A's
response
to TT's
MIL #
13

goes to
weight
see 9th
Cir. model
Enst.
1.11

1 to Mr. Peters?

2 A I have no recollection of making that statement
3 to Mr. Peters.

4 Q Okay. But you're not saying you never made
5 that statement to Mr. Peters. You're just saying, I do
6 not recall making that statement; isn't that accurate?

7 A That's accurate.

8 MS. ZELLNER: Objection. Asked and answered.
9 She testified the statement was false.

10 BY MR. FREIMUND:

11 Q I didn't hear your answer, Ms. Link.

12 Is that accurate? My question to you, was that
13 accurate?

14 A I'm sorry.

15 Q You want me to ask you again?

16 A Yes.

17 Q Is it a fair understanding of your testimony
18 that you do not recall making the statement to Mr. Peters
19 that Kathryn Spencer disclosed sexual abuse to you on
20 November 1, 1984, but you are not testifying under oath
21 that you didn't make that statement to him at some point?
22 You just don't recall making that statement.

23 MS. ZELLNER: Asked and answered. Objection.

24 BY MR. FREIMUND:

25 Q Please answer the question.

1 A I don't recall making that statement. I don't
2 have any recollection.

3 Q Does that mean you never made such a statement
4 or does that mean you just don't remember whether you did
5 make such a statement?

6 A I have no recollection of the statement.

7 Q I understand that. But, you know, I don't want
8 to walk through this, again, ma'am, but I'm just trying
9 to make that distinction once again on whether you do not
10 remember this or are you saying it never happened.

11 So my question is are you saying you never made
12 such a statement to Mr. Peters or are you saying, I
13 cannot remember whether or not I made such a statement to
14 Mr. Peters? Which is it?

15 A I'm saying that I have no recollection of
16 making the statement.

17 Q All right. So you are not saying you never
18 made such a statement; is that correct?

19 MS. ZELLNER: Objection. Asked and answered.

20 MR. FREIMUND: That has not been answered.

21 BY MR. FREIMUND:

22 Q Please answer it.

23 A What was it again?

24 Q Are you saying you never made such a statement
25 to Mr. Peters?

1 A I have no recollection of making a statement to
2 Mr. Peters about that.

3 Q But you can't say that you never made such a
4 statement either, can you?

5 A I have no recollection of it.

6 Q All right. Now, you previously -- in looking
7 at those handwritten notes, you previously indicated that
8 several of the things that are written there in those
9 handwritten notes that were taken 25-plus years ago are
10 accurate. That Mr. Peters accurately noted that you were
11 a Ph.D. candidate. Whatever that second line is. That
12 you were also a registered nurse and you were licensed in
13 marriage counseling, and you never testified before.

14 All that was accurately recorded by him, wasn't
15 it?

16 A Yes.

17 Q Okay. But you're saying other portions of
18 these notes are not accurately recorded, or are you
19 saying, I don't remember saying those things at that
20 time?

21 A I don't remember saying those things at that
22 time.

23 Q Okay. Do you remember -- just looking at the
24 notes there, there's kind of circled Arabic numerals on
25 the left-hand margin. Ms. Zellner asked you about the

Objection

-Id.

-Also

hearsay,
speculative
about notes,
cumulative,
asked and
answered.

See A's
response to
IT's M14 #13

goes to
weight
and
credibility
of
allegation
that
Peters'
notes
are
inaccurate
in other
respects

1 first circled Arabic numeral 1.

2 The next, Arabic numeral 2, talks about sleep
 3 problems. Unable to sleep alone. Had to sleep in same
 4 room with mother. Nightmares. Unable to go to sleep
 5 before mom got home or if mom went out.

Objection
 -Same
 objection
 and
 reservati
 on based
 on dkt.
 202 at
 15; also
 speculati
 ve and
 hearsay.

6 Do you recall those being some of the symptoms
 7 that Kathryn Spencer was displaying or reporting during
 8 the time you were providing therapy to her?

9 A I don't recall specific symptoms.

10 Q Okay. Do you think that that was an inaccurate
 11 notation of what you may have said to Mr. Peters or
 12 whoever it is who wrote these notes?

13 MS. ZELLNER: Objection. It misstates the
 14 evidence. She doesn't remember saying this to anybody.

15 MR. FREIMUND: I understand that.

16 BY MR. FREIMUND:

17 Q I'm saying -- I'm asking a little something
 18 different though, Ms. Link, and that is are you saying
 19 that these notes of what you reportedly told somebody
 20 back in 1985 are inaccurate.

Objection
 -Id.

21 A I'm not saying they're inaccurate. I'm saying
 22 that I don't remember all the specific symptoms that she
 23 had or telling Mr. Peters specific symptoms.

24 Q Okay. Let's go to the next page, under
 25 Arabic numeral 3, which says, "When she came back from

1 Washington, she displayed, quote, overreactive anger, end
2 quote, to things that earlier had not bothered her.

3 "Indicates post-traumatic anxiety. Reported by Deanne."

4 Are you testifying that those notes are
5 inaccurate or you just don't recall saying those things
6 back then?

7 MS. ZELLNER: Objection. The note says it was
8 reported by Deanne. It doesn't say it was reported by
9 Dr. Link. She can't testify as to what Deanne
10 reported.

11 MR. FREIMUND: That's your mischaracterization
12 of what the notes are talking about, Counsel. I'm asking
13 this witness, are you saying those notes of what this
14 individual is reporting you talked to him about are
15 inaccurate.

16 MS. ZELLNER: You're misstating the notes. On
17 page 0081, it says that information is reported by
18 Deanne. It doesn't say it's reported by Dr. Link, so
19 it's improper to ask her to speculate on that.

20 MR. FREIMUND: Counsel, you know that it's not
21 a proper objection, and I'd appreciate you not attempting
22 to go coach witnesses.

23 MS. ZELLNER: I'm not coaching the witness.
24 The document says, "Reported by Deanne." If it said,
25 reported by Ann Link, she could answer it. It doesn't